

Appl. No.: 09/779,973
Amdt. dated 04/20/2006
Reply to Office Action of 01/27/06

REMARKS/ARGUMENTS

The Official Action follows reopening of prosecution in light of the panel decision regarding the pre-appeal request. The Official Action now rejects Claims 1-30 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Application Publication No. 20020095366 to Chang. In addition, the Examiner maintains the rejection of Claim 31 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Application Publication No. 20020065758 to Henley.

In light of the Official Action and cited reference, Applicants submit that independent Claims 1, 12, 19, 27, 30, and 31 are patentably distinguishable from the cited references. Independent Claim 31 has been amended to clarify the claim. In light of the claim amendments and subsequent remarks explained more fully below, Applicants respectfully request reconsideration and allowance of the claims.

(I) Independent Claims 1, 12, 19, 27, and 30

Applicants initially submit that the Official Action fails to comply with 37 C.F.R. 1.104. Pursuant to 37 C.F.R. 1.104(b), the Office Action is required to be "complete as to all matters," and 37 C.F.R. 1.104(c)(2) requires that when the reference relied upon "shows or describes inventions other than that claimed by the applicant, the particular part relied on must be designated as nearly as practicable." In this regard, the Examiner generally cites to the Summary of the Invention and Detailed Description of the Preferred Embodiment of Chang in support of the rejections of each recitation of independent Claims 1, 12, 19, 27, and 30 (i.e., col. 2-5, ¶¶ 0015-0053). Thus, simply reprinting the claims and citing a substantial portion of Chang is not "designated as nearly as practicable." In addition, the Examiner initially cites Chang, but then cites "Walker" (presumably U.S. Patent No. 6,134,534 to Walker et al.) on pages 2-6 of the Detailed Action. As will be explained in further detail below, Chang is clearly distinguishable from the claimed invention, and any specific portions of Chang relied upon by the Examiner as purportedly disclosing the claimed invention is duly requested.

Chang discloses a capacity auction method and system providing enhanced fabrication facility utilization, such as for fabrication of semiconductor integrated circuit microelectronic fabrications. In particular, Chang discloses that a fabrication facility includes a total available

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production capacity and a first capacity allocated from the total available production capacity for producing at least one product. The first capacity is auctioned to a pool of bidders. At least one winning bidder is determined from the pool of bidders, and a quantity of the specified product is fabricated for the winning bidder.

Applicants submit that Chang is fundamentally distinct from the claimed invention. Namely, Chang discloses that the fabrication facility is capable of fabricating electrical products, mechanical products, chemical products, electro-mechanical products, and microelectronic products. Chang also discloses that "the auction capacity of the total fabrication facility available capacity may be auctioned while employing auction methods and auction formats as are otherwise generally convention within any of several auction arts," such as English, Dutch, reserve, non-reserve, sealed bid, and Vickrey auction methods and formats (§ 43). In addition, Chang discloses enhancing fabrication facility utilization in order to increase economic return.

Conversely, the claimed invention generally provides a "reverse auction" whereby requests may be grouped or individually submitted such that bids may be received for one or more products represented in the group of requests or for the individual requests. As such, bids are received in response to the requests, such as suppliers submitting bids to satisfy users' requests. In one embodiment of the claimed invention, the requests are travel requests in the form of a passenger name record (PNR). Some requests are received in a format that may be immediately processed, while other requests need to be converted into a different format for processing using a predetermined protocol. Requests can be eliminated that fail to meet predetermined criteria, while flexibility rules may be employed to group requests. Moreover, embodiments of the present invention continually shop one or more requests at the distribution system until the request is satisfied. Therefore, the claimed invention enables consumers to use groups to increase buying power for products and services, as well as make a request that can be continuously shopped until the request is satisfied.

In contrast and at a most general level, Chang is directed to enhancing the utilization of a fabrication facility, while the claimed invention is employed to auction consumer demand to suppliers, such as travel service providers, as well as book a travel request. Thus, Chang is directed to a technique to enable a supplier to identify consumers, while the claimed invention is

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exactly the opposite, that is, a technique to enable consumers to select a supplier. In particular, Chang discloses that bidders submit bids in a conventional manner such that suppliers will gain the benefit of the buyer submitting the highest winning bid, while embodiments of the present invention increase buyers' buying power by grouping requests and locating the lowest price for the requested product or service. In addition, Chang does not teach or suggest several more specific aspects of the claimed invention, such as grouping requests, filtering requests, converting formats of requests, reevaluating a price to fulfill the travel request, and/or continually shopping requests. Thus, Applicants fail to find any correlation between the claimed invention and Chang and submit that independent Claims 1, 12, 19, 27, and 30 are clearly distinguishable from Chang. Despite the fundamental distinction between the claimed invention and Chang, Applicants discuss hereinbelow each independent claim and particularly point out the distinctions between the claims and the disclosure of Chang.

(A) Independent Claims 1, 12, and 19

Independent Claim 1 recites a system for auctioning consumer demand that includes a request adaptor that receives a first data set (*e.g.*, PNR) in a first protocol, converts the first data set into a second data set (*e.g.*, standard protocol) in a second intermediate protocol, and then converts the second data set into a third data set (*e.g.*, travel request) in a third protocol. Similarly, Claims 12 and 19 recite a system and method, respectively, that include a request adapter for receiving a PNR from a distribution system (*e.g.*, GDS) and converting the PNR into a travel request.

Chang does not disclose converting data sets or PNR's into travel requests, filtering data sets or travel requests, creating groups of data sets or travel requests, and/or shopping for bids on at least one product represented in the group, as recited by independent Claims 1, 12, and 19. As described above, Chang simply discloses auctioning a product to a pool of bidders where the bids are not converted in any other format, filtered based on any criteria, grouped based on any particular criteria, and/or shopped in order to book at least one product represented in the group. In fact, Chang discloses just the opposite, *i.e.*, bids are submitted for the product. Furthermore, with respect to independent Claims 12 and 19, Chang relates to fabrication facilities, and there is

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simply no motivation or suggestion to modify Chang to be applicable to the travel industry. In this regard, Chang is concerned with fabricating products and fulfilling available capacity of the fabrication facility which bears no relation to satisfying requests for travel related goods and services.

As such, Applicants respectfully submit that the rejection of independent Claims 1, 12, and 19, and those claims that depend therefrom, under 35 U.S.C. § 102(e) is therefore overcome.

(B) Independent Claim 27

Independent Claim 27 recites a method for booking a travel request that includes receiving the travel request, and continuously shopping the travel request at a distribution system. The method also includes reevaluating a price offered at the distribution system to fulfill the travel request, and booking the travel request at the distribution system if it is determined that an appropriate price is offered at the distribution system. As disclosed on page 11 of the specification of the present application, the dynamic packaging orchestrator and continuous shopping engine module ("DPO/CSE module") continuously shops for travel products or services that are capable of satisfying the travel request. Thus, the DPO/CSE module continuously shops the travel request at the GDS and reevaluates fares and availability at the GDS to find products or services that satisfy the travel request.

Chang does not teach or suggest receiving travel requests, continuously or repeatedly shopping a travel request at a distribution system, and/or reevaluating a price offered at the distribution system to fulfill the travel request, as recited by independent Claim 27. As described above, Chang relates to fabrication facilities such that there is simply no motivation or suggestion to modify Chang to be applicable to the travel industry. Moreover, Chang teaches away from continuously shopping a travel request at a distribution system, as Chang discloses that the auction ends if there is no winning bidder. Chang also does not disclose reevaluating a price for offered bids due to the fact that Chang discloses that the bidders either have a high bid or they do not.

As such, Applicants submit that the rejection of independent Claim 27, and those claims that depend therefrom, under 35 U.S.C. § 102(e) is therefore overcome.

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(C) Independent Claim 30

Independent Claim 30 recites a dynamic packaging orchestrator and continuous shopping engine (DPO/CSE) that includes a dynamic packaging management module for dividing one or more grouped travel requests into a plurality of individual requests represented in the one or more grouped requests and creating additional requests based on flexibility rules. The DPO/CSE also includes a dynamic connection constructor module for receiving the one or more grouped requests and generating a list of alternate requests based on a consumer's flexibility, and submitting the alternate requests to the dynamic packaging management module. In addition, the DPO/CSE includes a bid management module for receiving the plurality of requests, the additional requests, and the alternate requests from the dynamic packaging management module. Each of the requests are offered for bidding and when a bid is received, a determination is made to ascertain if the bid is acceptable before booking the bid.

In contrast, Chang does not disclose dividing one or more grouped travel requests into a plurality of individual requests represented in the one or more grouped requests, creating additional requests based on flexibility rules, generating a list of alternate requests based on a consumer's flexibility, offering the individual/additional/alternate requests for bidding, and/or receiving bids on the individual/additional/alternate requests and determining whether one or more bids are acceptable. Conversely, Chang simply discloses that a pool of bidders submit bids for an order within a fabrication facility; there is no modification of the pool of bidders or the bids themselves. Furthermore, Chang does not even disclose receiving bids for travel requests, let alone bids for requests that have been modified in any way (i.e., dividing individual requests from a grouped travel request and/or generating additional/alternate requests based on flexibility rules).

Therefore, Applicants respectfully submit that independent Claim 30 is distinguishable from the cited reference, and that the rejection under 35 U.S.C. § 102(e) has been overcome.

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(D) Claim 31

The Office Action rejects Claim 31 under § 102(e) over Henley. Applicants again request clarification regarding the Official Action, as the Examiner appears to cite portions of Walker (presumably U.S. Patent No. 6,134,534 to Walker et al.) in rejecting portions of Claim 31, although Henley purportedly anticipates the claim. In any event, Applicants submit that Claim 31 is distinguishable from Henley for the reasons set forth below.

Henley discloses a method and system for provision and acquisition of medical services and products. For example, medical service providers may list services to be performed, scheduling dates, and an offering price for the services. Buyers may access the listed services and submit bids on a bidding database, and if the bid meets the specifications in the offer to sell, the bid is accepted. Henley also discloses that buyers may submit bids on a "services wanted" bidding database at a price set by the buyer, and sellers may submit offers to provide the requested service at a seller-set price, which the buyer may or may not choose to accept. Moreover, Henley discloses that the offering price of services can be automatically adjusted as patients purchase offered services and in response to the anticipated degree of utilization of the offered services. For instance, the price of the medical services may be decreased during periods of underutilization.

In contrast to the disclosure of Henley, Claim 31 recites repeatedly shopping at least one request for items at a distribution system in pre-determined time intervals until the request is satisfied. Henley does not disclose that the buyers' offers for medical services are repeatedly shopped on the bidding database. Rather, a buyer submits a bid for medical services when the price is acceptable to the buyer; there is no reshopping of the buyer's bid on the bidding database. Although Henley discloses adjusting the price automatically in response to the degree of utilization of the facility's schedule, the prices are not adjusted in pre-determined time intervals, as the prices are adjusted in response to consumer demand, which may vary widely depending on the type of service and/or the needs of the consumers. As disclosed on page 11 of the present application, the DPO/CSE module may utilize time triggers to cause a re-shop if an interval of time passes without a fare or availability event triggering a reevaluation of the request. In this regard, even assuming that the adjustment of the prices of the medical services

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based on the degree of utilization corresponds to "repeatedly shopping," the medical services are not repeatedly shopped in pre-determined time intervals.

Therefore, Applicants submit that the rejection of Claim 31 under 35 U.S.C. § 102(e) is overcome since Henley does not teach or suggest repeatedly shopping a request at a distribution system in pre-determined time intervals until the request is satisfied, as recited by independent Claim 31.

(II) Information Disclosure Statement

It is noted that an initialed copy of the PTO Form 1449 that was submitted with Applicants' Information Disclosure Statement filed September 23, 2005 has not been returned to Applicants' representative with the Office Action. Accordingly, it is requested that an initialed copy of the Form 1449 be forwarded to the undersigned with the next communication from the PTO. In order to facilitate review of the references by the Examiner, a copy of the Information Disclosure Statement and the Form 1449 are attached hereto.

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CONCLUSION

In view of the amendments and remarks presented above, it is respectfully submitted that all of the present claims of the present application are in condition for immediate allowance. It is therefore respectfully requested that a Notice of Allowance be issued. The Examiner is encouraged to contact Applicants' undersigned attorney to resolve any remaining issues in order to expedite examination of the present application.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,

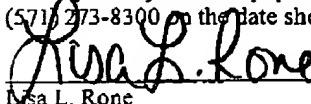


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4/20/06

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